

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-51 are now present in this application. Claims 1, 24, 37, 41 and 47 are independent and have been amended by the present amendment.

First, it is respectfully noted an associate power of attorney/change of correspondence address was previously filed in this application on December 13, 2002. However, the last Office Action was mailed to the old address (i.e., to the wrong address). Therefore, enclosed is a copy of the previously filed papers on December 13, 2002. Accordingly, it is respectfully requested the file be updated with the new address and power of attorney.

35 U.S.C. 103(a) Rejections

There are several rejections under 35 U.S.C. § 103(a) listed in the Office Action. Each of the rejections is respectfully traversed.

Claims 1, 24, 37, 41 and 47 are independent. For example, amended independent claim 1 is directed to a method of selecting a server to represent a virtual server hosted by a plurality of servers. The method includes providing a load balancer not associated with the virtual server and in which the load balancer includes a client-controlled load balancer that directly selects one of the plurality of servers representing the virtual server based on one or more parameters provided by the load balancer.

Thus, according to the present invention, the user or client is able to make an intelligent decision as to which virtual server would best serve the client.

In rejecting the independent claims, the Office Action relies on the primary reference by Skene et al. as teaching the claimed load balancer and cites the EDNS server 160 in Figure 1, for example. However, it is respectfully noted the EDNS server 160 in Skene et al. only determines which server array controller SAC 101, 102 and 103 to select. Then, the SAC 101, 102 or 103 decides which virtual server 1 ... N is selected (see also paragraph [0028] – [0035], for example).

Thus, Skene et al. is similar to the background art discussed in the invention of the present application in which a server array controller or manager away from the client ultimately determines which server to select. That is, the server array controller in Skene et al. determines which server to use. The EDNS does not perform this function. This differs from the present application in which a client-controlled load balancer allows the client to determine how a server is to be selected, rather than having this determination performed by the manager of a particular website (see page 2, lines 25-27, for example). The additional secondary references by Bertin et al., Friedman et al., Visapel et al. and Brendel et al. also do not teach or suggest these features.

Accordingly, it is respectfully submitted independent claims 1, 24, 37, 41 and 44 and the claims depending therefrom are allowable.

In the event there are any matters remaining in this application, the Examiner is invited to contact David Bilodeau at (703) 205-8072, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

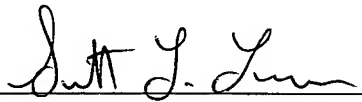
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-1602 for any

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: October 25, 2005

Respectfully submitted,

By 

Scott L. Lowe

Registration No.: 41,458

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant